

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

ZINO DAVIDOFF SA,

Plaintiff,

v.

CVS CORPORATION,

Defendant.

06 Civ. 15332 (KMK)

**DECLARATION OF ERICH JOACHIMSTHALER IN SUPPORT OF
PLAINTIFF'S MOTION FOR A PRELIMINARY INJUNCTION**

I, Erich Joachimsthaler, hereby declare as follows:

1. I am the Chief Executive Officer of Vivaldi Partners, a strategic marketing and brand strategy consulting firm with headquarters in New York and offices in Los Angeles, Munich, Hamburg, Dusseldorf, Zurich, and London. I submit this declaration in support Zino Davidoff's motion for preliminary injunction based on my own personal knowledge and the review of documents mentioned herein.

QUALIFICATIONS

2. I have been a professional in the branding and marketing field for more than 20 years and have provided expert brand and marketing advice to a diverse set of clients in industries such as luxury, fashion, consumer products, technology, financial services, entertainment and energy among others.

3. Before founding Vivaldi Partners, I co-founded a company with Professor David A. Aaker called Aaker - Joachimsthaler & Partners, which we sold in 1999 to Prophet. I was a Chairman at Prophet before founding Vivaldi Partners.

4. I am recognized as an authority on marketing strategy and building strong brands. My work has been published in numerous articles including best-selling articles in the *Harvard Business Review*, and a book, *Brand Leadership: The Next Revolution of Brand Strategy*, which I co-authored with David Aaker, published by The Free Press in January, 2000. My latest work can be found in the book *Hidden in Plain Sight: How to Find your Company's Next Big Growth Strategy*, published by Harvard Business School Press, which is currently in press and will be available in May 2007. I have published extensively in academic journals such as the *Harvard Business Review*, *Journal of Marketing Research*, *Journal of Marketing*, *Journal of Consumer Research* and *Sloan Management Review*. Please refer to Exhibit A for my full resume, publications and academic credentials.

5. Over the past 15 years, I have been involved in numerous brand management projects for many clients in North America and Europe. I have worked for clients in extending brands into premium sectors of markets as diverse as food, automotive, durables and fashion. I have assessed the value of brands and their potential for development in several hundred situations and I have led research into the extension of brands or well-known trademarks.

6. I have held faculty positions at the Darden Graduate School of Business Administration at the University of Virginia, the University of Southern California, University of Houston in Texas, and Instituto Estudios Superiores de la Empresa (IESE) in Barcelona, Spain.

7. I am currently a Visiting Professor of Business Administration at IESE in Barcelona, Spain, one of the leading European business schools offering MBA and

executive education programs.

8. In 1988, I completed a post-doctoral fellowship at the Harvard Business School, and in 1985, I received my Ph.D. in Business Administration (with emphasis on statistics and marketing) from the University of Kansas. In 1981, I received my Master's Degree of Science (with emphasis in quantitative methods) and in 1979 I received my Economics degree from the Fachhochschule Giessen-Friedberg, Germany.

9. I have previously testified as an expert witness by deposition or a trial in the cases listed in Exhibit B.

10. I am being compensated at a flat rate of \$25000 for developing this report.

Materials Reviewed

11. To carry out the foregoing assignment, I have reviewed, among other materials, the following:

Publications:

- Aaker, David and Joachimsthaler, Erich, Brand Leadership
- Aaker, David and Robert Jacobson (1994), "The Financial Information Content of Perceived Quality," Journal of Marketing Research, 31 (Spring)
- Aaker, David, Building Strong Brands, The Free Press, 1996
- Aaker, David, Managing Brand Equity, The Free Press, 1991
- Keller, Kevin L. (2003), Strategic Brand Management: Building, Measuring, and Managing Brand Equity, 2nd Ed., Englewood Cliffs, NJ: Prentice-Hall
- Moeller, Leslie, Hodson, Nick and Wolfsen, Brad. "The

Superpremium Premium,” Strategy and Business

- Roberts, Kevin, Lovemarks: the Future Beyond Brands, PowerHouse Books, 2004

Reports and Studies:

- 2006 Men’s Study, Image Profile, NPD Fragrance Track
- NPD US Rank 1997 – 2005 Fragrances
- KSAINYD Branding Report 1996; Daily News Record National Survey conducted by America’s Research Group (1995)

Case Materials:

- Pictures taken by Zino Davidoff’s investigators of examples of decoded DAVIDOFF products
- February 7th 2007 letter from Lisa Pearson to the honorable Kenneth M Karas
- February 26th 2007 letter from Nicholas Fortuna to the honorable Kenneth M Karas
- Amended complaint in the Zino Davidoff v. CVC Corporation matter, February 7th 2007
- Declaration of Guido Baumgartner, December 20th 2006
- Transcript of March 2nd 2007 conference in the Zino Davidoff’s SA v. CVS Corporation matter

Internet:

- Zino Davidoff website
- Coty Website

Summary of Opinion

12. I am summarizing here the conclusions I have reached from my analysis and research in this particular situation:

- DAVIDOFF represents a premium fragrance brand in the beauty category with certain brand values and quality perceptions.
- In the category in which the plaintiff Zino Davidoff SA (“Zino Davidoff”) competes, the strength of the brand, as defined in terms of the well known concept of brand equity, is particularly important and valuable for brand owners and consumers.
- Zino Davidoff has a strong brand consistent with its quality positioning in the market and the brand can be considered a trustmark
- The stewardship of a brand or trustmark like DAVIDOFF requires proactive brand management. One of the critical components of Zino Davidoff’s brand management system is the product identification system and the code on the packages of DAVIDOFF products.
- A failure of defendant CVS Corporation (“CVS”) to support this product identification system, by selling decoded DAVIDOFF fragrances, represents a materially altered value proposition and promise to consumers. This poses a significant risk to the integrity of the quality assurance and tracking system of Zino Davidoff and can therefore seriously damage the strength of the brand.

Introduction to Brands and Branding

13. In order to understand the marketplace dynamics and consumer psychology surrounding the DAVIDOFF brand, it is important to understand the origins of branding, what is a brand, and how the role of branding has evolved over the years until today. The word brand originates from the Old Norse word “brandr,” which means to burn. Indeed, branding or burning was (and is) the method by which farmers mark their livestock to identify who owns them.¹ Branding became important during the industrial revolution, when businesses sought to distinguish the qualities of their products and services. At this level, a brand is a distinguishing name and/or symbol intended to identify services or goods.² This definition makes reference to one of two important components of the brand. The reference is to the tangible component of a brand such as the physical manifestation of a brand including a name like KODAK or BULGARI, a logo like the scripted VIRGIN MEGASTORE logo or the AT&T world logo, an image such as the MALBORO man or a package design like APPLE ITUNES. These components, however, are only one elementary and basic component of the brand.

14. The other, and most important, component of the brand is the intangible component. Intangible components give meaning to the brand beyond its name or logo. These intangible components are perceptions, feelings, emotions and thoughts that are linked to a brand. David Ogilvy, the advertising guru, wrote in his book, *Confessions of an Adman*, that a brand is a “consumer’s idea of a product.” Ogilvy gives attribution to this second and most important part of a brand, namely those thoughts and feelings, literally everything that is stored in a consumer’s memory and linked to a name of a product, service or company. Metaphorically speaking, a brand can be viewed much like

¹ Keller, Kevin L. (2003), *Strategic Brand Management: Building, Measuring, and Managing Brand Equity*, 2nd Ed., Englewood Cliffs, NJ: Prentice-Hall, p. 3

² David A. Aaker, *Managing Brand Equity*, The Free Press, 1991

a box in someone's head. As people receive information about a brand, positive or negative, they file it away in the box labeled with the name of the brand.³ After repeat exposure to or experience with a brand, consumers develop a number of thoughts and feelings about the brand and store them in this box. Zino Davidoff, for example, has managed its brand over time to develop specific thoughts and feelings with the brand including quality, luxury, pleasure, exclusivity and intensity of living.⁴ Other perceptions of quality of DAVIDOFF for men are sporty, a great fragrance, being masculine, clean and fresh, as shown in image profile ranks.⁵

The Importance of Brand Equity for DAVIDOFF

15. Brands like DAVIDOFF build, nurture and protect their tangible and intangible components over time. They do this because they know that a strong brand can create considerable value to its owners and provide benefits to consumers. Strong brands tend to be able to command a premium price over competitors. A large study across a number of product categories found that 72 percent of customers say they will pay a 20 percent premium for the brand of their choice.⁶

16. This is particularly the case for brands in categories such as fashion, luxury or lifestyle. For an extreme example, consider the niche vodka brand GREY GOOSE which can command a price premium of 250 percent over the volume leader in the category.⁷ Even mainstream market brands like ABSOLUT vodka can still command

³ David Aaker, *Building Strong Brands*, The Free Press, 1996

⁴ Definition of the DAVIDOFF brand on Coty Website:

<http://www.coty.com/WebContent.asp?CO=1110&Sec=2&Sub=1&F=Davidoff&Item=1>

⁵ 2006 Men's Study, Image Profile, NPD Fragrance Track

⁶ K&A, Brandkey.

⁷ Moeller, Leslie, Hodson, Nick and Wolfson, Brad. "The Superpremium Premium," *Strategy and Business*, pg. 321

a premium above SMIRNOFF, and other vodkas despite the fact that the products themselves are nearly indistinguishable from one another.

17. Zino Davidoff can command a premium over its competitors because it offers a highly successful line of quality lifestyle fragrances and related products which represent higher value to consumers. DAVIDOFF fragrances are positioned above the price points of many of their competitors in the same prestige fragrance category, such as CALVIN KLEIN or BOSS.

18. DAVIDOFF COOL WATER ranks consistently among the top selling fragrances in the US.⁸ While this positioning of the brand permits Zino Davidoff to demand a higher price relative to competitive brands, it also raises consumer expectations regarding the product delivery and quality. Zino Davidoff needs to be very professional in managing its brand. Specifically, Zino Davidoff must carefully nurture and protect the values of the DAVIDOFF brand because the benefits to its consumers can only be delivered if the quality expectations of consumers are upheld over time. If these expectations were not met, the value of the DAVIDOFF brand would dwindle considerably.

19. It is helpful to shed more light on how value is created through brands and brand management for brand owners and consumers by digging deeper into the sources of brand strength. In general, the sources of brand strength relate to the knowledge that consumers hold in their memory about a brand. In our field, when we assess brand strength, we often refer to the well-known and accepted concept of brand equity. Brand equity dimensionalizes brand strength and attempts to explain how dimensions of brand strength create value, that is achieve consumer response. Hence, brand equity is defined

⁸ NPD US Rank 1997 – 2005 Fragrances

as the differential consumer response to a product or service from knowing the brand⁹. Brand equity drives behavior, that is, purchase and repeat purchase of products and hence economic value to the brand.

20. Overall, the economic benefits to those companies and owners of strong brands can be considerable. The brand can create a positive impact on a company's financial returns. A study of 33 major brands found that those experiencing the biggest gains in brand equity over a period of one year experienced an average stock return of 30 percent, while firms with the biggest loss in brand equity saw stock returns fall by 10 percent.¹⁰

21. A brand with equity possesses at least five asset dimensions: a) awareness, b) associations, c) perceived quality, d) loyalty and e) other important assets, such as the channel or trade relationships, which are of particular importance in market situations like those facing Zino Davidoff.

22. **Awareness:** The first asset, awareness, refers to consumers' familiarity with the brand, the extent to which the brand is known. Awareness is an important asset dimension. It is the major building block of the other asset dimensions, including brand perceptions or associations and loyalty. Amongst men, the DAVIDOFF brand has strongest awareness with its core target group – those men between the ages of 25 and 34, with DAVIDOFF COOL WATER ranked amongst the top 15 brand male consumers are most aware of.¹¹ These statistics confirm that awareness is a potentially important dimension for DAVIDOFF. Without strong awareness, a brand would have little hope of

⁹ Keller, Kevin L. (2003), *Strategic Brand Management: Building, Measuring, and Managing Brand Equity*, 2nd Ed., Englewood Cliffs, NJ: Prentice-Hall, p. 64-67

¹⁰ Aaker, David and Joachimsthaler, Erich, *Brand Leadership*, pg. 21

¹¹ 2006 Men's Study, Image Profile, NPD Fragrance Track

establishing other asset dimensions of brand strength or building consideration and then purchase. In the case of DAVIDOFF COOL WATER, purchase as measured in terms of purchase intent amongst those men aware is amongst the top three brands ranking in US male fragrances.¹²

23. **Brand Associations:** The second key asset of any brand is having strong, favorable and unique brand associations. Brand associations are anything ‘linked’ in memory to a brand.¹³ An association can be a visual image (the gecko lizard for GEICO), a feature (IPOD’s design), an attribute (VOLVO’s safety), a gesture (ALLSTATE’s hand gesture associated with the tagline: “You are in good hands with ALLSTATE”), or a benefit (CREST’s cavity prevention). Such associations form the core of how consumers evaluate a brand on an ongoing basis. A number of associations distinguish DAVIDOFF. Many of these associations have established a history of quality, pleasure and lifestyle. This is captured in a single thought, which we call the brand essence; “The Art of Living”, referred to in French as, ‘l’art de vivre’.¹⁴

24. Positive associations build brand equity, but by the same token, negative associations destroy brand equity. Once a brand is negatively perceived, it is very hard to rebuild the brand. Any aspect of the brand that is perceived by consumers as being poorly managed or delivered (this can range from social responsibility issues through to durability of a product), will build negative associations for consumers. In the case of DAVIDOFF, repeated inconsistent or poor delivery in relation to that expected of a quality brand (e.g., through imperfect packaging, poor spray delivery, inconsistent fragrance between bottles, etc) would inevitably result in negative associations for

¹² 2006 Men’s Study, Image Profile, NPD Fragrance Track

¹³ David Aaker, *Managing Brand Equity*, The Free Press, 1991

¹⁴ www.coty.com

consumers, because it materially alters the value proposition and promise to the consumer. This in turn lowers brand equity, not only in relation to the fragrances but also in relation to the other luxury products sold under the DAVIDOFF brand.

25. **Perceived Quality:** The third key asset is perceived quality. Perceived quality is “the customer’s perception of the overall quality or superiority of a product or service with respect to intended purpose, relative to alternatives.”¹⁵ Perceived quality is one of the most important components of brand equity and the source of many brands’ competitive advantage. While perceived quality is merely another brand association, it is often separated out because of its strategic importance. Perceived quality is strongly and directly related to profitability as it has an impact on higher market share and higher price realization.¹⁶ In the highly competitive beauty and fragrance market in which DAVIDOFF fragrances competes, perceived quality is the most important and fundamental part of a brand, often referred to as the cost of entry attribute, a minimum condition to even stay competitive. This also holds true for technology and food markets.

26. In fragrances, quality is related to the actual scent as well as the physical packaging of the product. Consumer perception can be adversely affected if a customer encounters even one product that is not as advertised – whether it is not what they expected, substandard quality or even worse, counterfeit. On one end of the spectrum, the consumer does not feel that the product matches his or her expectations – for example, the packaging is tattered, or the fragrance smells off. On the other end, there is some negative physical reaction to the fragrance, for which the consumer would hold the brand owner responsible. Being able to control this interaction, by recalling a product or

¹⁵ David Aaker, *Managing Brand Equity*, The Free Press, 1991

¹⁶ David A. Aaker and Robert Jacobson (1994), “The Financial Information Content of Perceived Quality,” *Journal of Marketing Research*, 31 (Spring), 191-201.

rectifying any quality issues, is extremely important for a brand.

27. In the case of counterfeit products, the brand owner has no control over the quality of the counterfeit. When a substantial number of counterfeit products infiltrate reliable retailers, consumers seriously question the reliability of the product and its channels of distribution. This element of uncertainty could significantly impact the DAVIDOFF brand. Low perceived quality, or questions as to authenticity, will adversely affect the likelihood of current customers to continue to re-purchase DAVIDOFF fragrances. A single disappointment with the product will adversely affect the likelihood of the consumer to re-purchase the product, materially disrupting the purchase funnel. Ultimately, this would serve as a severe disruption to Zino Davidoff's business and cause material damage to the DAVIDOFF brand.

28. **Loyalty:** The fourth key asset is loyalty. Loyalty is "a measure of the attachment that a customer has to a brand. It also reflects how likely a customer will be to switch to another brand."¹⁷ Brand loyalty is "the heart" of any brand's value, however, consumer's loyalty towards a brand can drop drastically after a negative experience with the brand. Poor or inconsistent consumer experience with the brand, from below-quality packaging, defective bottling, sub-standard fragrance or even counterfeit products could potentially result in a loss of brand loyalty.

29. **Channel and Trade relationships:** A fifth brand asset dimension of brand equity is the channel and trade relationships of a brand. A premium brand is expected to be sold in a store environment that supports the brand. It is our understanding that CVS has no direct relationship with Zino Davidoff or its exclusive fragrance distributor in the US market, and that DAVIDOFF fragrances are primarily

¹⁷ David Aaker, *Managing Brand Equity*, The Free Press, 1991

sold in high end department stores and perfumeries.

30. Nonetheless, CVS is in itself a recognized and reputable retailer, even though it is a different channel of distribution than high end department stores. Therefore, consumers who shop at CVS stores expect to purchase genuine DAVIDOFF products. Through selling decoded DAVIDOFF products, CVS is potentially misleading consumers that shop at CVS with full expectation that the products sold there are genuine and, hence, of the highest quality.

DAVIDOFF as a Trustmark

31. As brand equity builds over time, consumers develop an emotional relationship with a brand. They trust the brand. This is why in our work, we do not talk about trademarks but about trustmarks.¹⁸ A trustmark begins to outgrow the boundaries of symbol, shape or name, or basic brand associations to embody the emotional connection that a company has with a customer. This trust is built through consistently delivering the promises implied by a brand's positioning. For a premium brand, of which DAVIDOFF is a clear example, the perceptual factors, like the above discussed brand associations and perceived quality, make up roughly 80% of the total value. Consumers trust a brand to the extent to which it delivers three benefits; functional, emotional and self-expressive, that constitute its value proposition and promise.

32. A brand delivers a functional benefit through product attributes which create the perception of quality. Because fragrances carry significant perceived risks of quality and peer-group acceptance, brands and the perception of high quality play an

¹⁸ Roberts, Kevin, *Lovemarks: the Future Beyond Brands*, PowerHouse Books, 2004

important role in consumer purchase decisions.¹⁹ Consumers cope with these risks by purchasing well-known brands that have high quality.²⁰

33. Emotional benefits represent another level of benefits for consumers. An emotional benefit relates to the ability of the brand to make the buyer or user feel something during the purchase process or use experience. They add richness and depth to using a brand. It is well known that the founder of Revlon, Charles Revlon, once said, “In the factory, Revlon manufactures cosmetics, but in the store we sell hope.” This quote reflects the notion that what the REVLON brand sells is an emotional benefit, a feeling of hope for its customers. The emotional benefit for the DAVIDOFF brand can be characterized as delivering a feeling of “self-confidence” that is supported by the brands’ positioning on quality, luxury and exclusivity.

34. Self-expressive benefits exist when the brand “provides a vehicle by which a person can proclaim a particular self-image.” A consumer may express a self-image of “alluring” and “feminine” by wearing MANOLA BLAHNIK shoes and sporting DIOR PURE POISON. An example of a self-expressive benefit of DAVIDOFF is “confidence” and of being a person who “lives life intensely.”²¹

35. With a premium brand like Davidoff, the bundling of these benefits is of fundamental importance to consumers. The combination of functional, emotional and self-expressive benefits come together to create the “trustmark” - connoting a promise of the brand to deliver on the associated quality of the product.

DAVIDOFF and Proactive Brand Management

¹⁹ KSAINYD Branding Report 1996; Daily News Record National Survey conducted by America’s Research Group (1995)

²⁰ Kevin Lane Keller, *Strategic Brand Management*, Prentice Hall, Upper Saddle River, New Jersey, 2003

²¹ <http://www.zinodavidoff.com/zino/en/pub/beauty/seriecoolwater/cwdeep.cfm>

36. Strong brands do not just develop naturally, they need to be managed. This management system is what we call the process of proactive brand management. Brand management is an entire discipline of management that involves careful practice, investment and development of brands. In my book, *Brand Leadership*, with David Aaker, I described such a brand management system, and the major tasks of brand management that executives need in order to build strong brands.²²

37. For brands in premium categories, brand management is even more important. In order to deliver the promises to consumers that are largely intangible and consist of feelings and emotions, astute management and practices are necessary to be successful. A failure to deliver on the promise implied by the brand and its value proposition lowers brand equity in general. In the case of fragrances and other premium brands, even the slightest failure can have serious impact on the brand and its value to brand owners and consumers. This is so for several reasons. First, the value proposition is built on largely emotional benefits and feelings. Second, the consumption and usage experience is very personal because a fragrance is something that one wears, that creates feeling when one is planning to and actually wearing it. A fragrance is also physical; it is applied to the skin and therefore implies certain health and safety risks that do not apply to other products.

38. A critical aspect for managing the brand for a premium product like DAVIDOFF is the product identification system. While in themselves, the product identification system and the product codes on the packaging of DAVIDOFF fragrance appear to be a minor element in managing the brand, they are, in fact, the key foundation of proactive brand management. This is so because the product identification system

²² David Aaker and Erich Joachimsthaler, *Brand Leadership*, Free Press, 2000

guarantees and supports the value proposition and promise to consumers. It helps to ensure that the entire value chain, from sourcing of the ingredients of the DAVIDOFF product, to manufacturing, testing, and distribution, is consistent with the quality aspirations of the brand. The product identification system allows Zino Davidoff to track the product and forms the basis of its quality assurance and anti-counterfeiting programs.

39. Without the product code there would be no simple way of tracing and eliminating quality issues or ensuring the authenticity of suspect products. Though in many cases, there are rarely any problems, the essence of a premium brand is the “promise” or assurance that that every product consistently delivers on a certain level of quality. Not being able to trace a product represents a material change to the value proposition of a premium brand, and subsequently the credible communication of the value proposition to consumers.

40. In my opinion, a failure of a retailer such as CVS which, in itself, is a trusted brand among consumers who shop in its stores, to support this product identification system of DAVIDOFF, threatens the entire brand management system for Zino Davidoff. It can result in significant damage to the DAVIDOFF brand. This is so because it affects nearly every aspect of the strength of the brand or brand equity and thus represents a materially altered value proposition and promise to consumers. The risks are clear. Consider just, for example, a post on a blog or a leak to the press that becomes a story that there are DAVIDOFF products on the shelf of retailers that do not meet the quality standards of the brand. This could call into question the validity and safety of all DAVIDOFF products.

41. It is important to note that these effects can occur even though consumers

are not specifically aware of the quality control methods or the product code. They simply expect that Zino Davidoff stands behind the quality of the DAVIDOFF fragrances sold at CVS stores. This quality standard is intrinsic to the DAVIDOFF value proposition.

Summary

Over the past 15 years, I have been involved in numerous brand management projects for many clients in North America and Europe. I have worked for clients in extending brands into premium sectors of markets as diverse as food, automotive, durables and fashion. I have assessed the value of brands and their potential for development in several hundred situations and I have led research into the extension of brands or well-known trademarks.

A brand builds equity and trust over time, which directly drives its profitability and long-term success. Damage to that equity and trust has a long-lasting negative impact on the brand and requires substantial investment in order to attempt to recover it. DAVIDOFF, as a premium fragrance brand, has its brand equity hinged primarily on the consistent delivery of high quality products, which, in turn, deliver on the functional, emotional and self-expressive benefits consumers expect.

The key to controlling and managing the consistent delivery of quality DAVIDOFF fragrances is the unique product code, as it allows for end-to-end management and control of the product at all stages of the supply chain. Therefore, the absence of the product code impedes this fundamental control mechanism from being carried out and therefore, leaves the brand open to damage through poor product delivery and quality standards – hence potentially resulting in a drop in brand equity, consumer trust and,

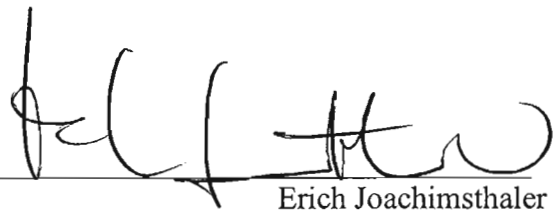
eventually, profitability.

Insofar as the product code is an important component of Zino Davidoff's anti-counterfeiting program, the absence of the code may result in an increase of counterfeit product in the marketplace, therefore disappointing consumer expectations and hence eroding the overall brand equity.

Finally, the product identification system is a certificate of genuineness and quality at every point of the process, from manufacturing to consumption. It is a certificate of genuineness and quality as the product leaves the factory, as it passes through customs, as it enters the retail channel and as it is sold to the customer. A product without a certificate is a materially different product, particularly to the consumer. It is irrelevant whether the consumer knows about the certificate – it is all part of the consumer's perception of quality of the product. A consumer who receives the product without a certificate receives less value than he or she bargained for.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Date: New York, New York
April 5, 2007



Erich Joachimsthaler

EXHIBIT A

Exhibit A: Full Resume, Publications, Academic Credentials

a) ERICH A. JOACHIMSTHALER, Ph.D.

Residence:

311 Amsterdam Avenue, # Ph-B
1500
New York, New York 10023
10017

Tel. 1-917-441-9141
Cell 1-917-679-8614

Email: ej@vivaldipartners.com

Office:

125 Park Avenue, Suite
New York, New York

Tel. 1-212-965-0900
Fax 1-212-965-0992

Education

Post-Doctoral Research Fellow	1987 - 1988	Harvard Business School
Doctor of Philosophy	1981 - 1985	University of Kansas Business Administration Specialization: Marketing
and		Quantitative Methods
Master of Science	1980 - 1981	University of Kansas Marketing Research
Vordiplom	1979 - 1980	University of Frankfurt Economics
Diplom Betriebswirt	1976 - 1979	Fachhochschule Giessen- Friedberg Business Administration and Computer Science/

Doctoral Dissertation

"Lp-Norm Estimation in Discriminant Analysis."
Chairs: John L. Lastovicka and Kenneth O. Cogger

Academic Experience

2004 -	Visiting Professor of Business Administration Department of Marketing, Instituto Estudios Superios de la Empresa (IESE), Barcelona
--------	--

1994 - 1998	Rust Visiting Professor of Business Administration Colgate Darden Graduate School of Business Administration University of Virginia, Charlottesville
1989 - 1994	Associate Professor of Marketing Department of Marketing, Instituto Estudios Superios de la Empresa (IESE), Barcelona
1985 - 1987	Assistant Professor of Marketing Department of Marketing, University of Houston, Houston
1982 - 1984	Adjunct Professor of Management Institute of Safety and Systems Management, University of Southern California, Los Angeles
1981 - 1985	Graduate Instructor in Marketing School of Business and School of Journalism, University of Kansas, Lawrence

Work Experience

1999	Founder and Chief Executive Officer, Vivaldi Partners, New York, London, Amsterdam, Munich, Hamburg, Dusseldorf.
1998 - 1999	Chairman, Prophet Brand Strategy, New York and San Francisco.
1995 - 1998	Aaker-Joachimsthaler & Partners (AJ&P), Charlottesville and Berkeley. AJ&P was acquired by Prophet Brand Strategy in January of 1999.
1990 - 1994	Alza Limited - Strategic Marketing and Reseach Consultancy, Barcelona.

Professional Memberships

American Marketing Association (AMA)
The Institute of Management Science (TIMS) - Marketing College
The Conference Board
European Academy of Marketing (EAM)
European Society for Opinion and Marketing Research (ESOMAR)

PERSONAL INFO

Erich is married to Daniela Gomez. Daniela was born in Santa Fe, Argentina and is an audiologist with a specialty for hearing disorders. They have two daughters, Sara, and Sophia and one son, Julian.

PUBLICATIONS

A. Publications

Brand Strategy and International Marketing

Der Zweck heiligt die Mittel, **Absatzwirtschaft**, 2004.

Ist das Markenarchitektur-Konzept noch zeitgemäße?, **Absatzwirtschaft Online**, 2004.

Muessen die Marken in Zukunft ihre Herkunft verleugnen?, **Absatzwirtschaft**, 2003.

Mitarbeiter: Die vergessene Zielgruppe fuer Markenerfolge, **Absatzwirtschaft**, 2002.

Je kleiner desto besser, **Absatzwirtschaft**, 2002.

Getting the most out of your branding effort, **Markenartikel**, 2002.

Aufbau von Marken im Zeitalter der Post-Massenmedien, **Moderne Markenführung**, 2001, 3. Auflage, Franz-Rudolf Esch (Eds), Gabler Verlag, Wiesbaden, with David Aaker.

Top Marken Strategien: Markenwert schaffen und absichern, **Absatzwirtschaft**, 2000.

The Branding Relationship Spectrum: The Key to the Brand Architecture Challenge, **California Management Review**, 2000, with David A. Aaker.

Brand Leadership, **Brandweek**, 2000, with David A. Aaker.

Brand Leadership, **The Free Press**, New York, 2000, with David A. Aaker. Translated in German, Spanish, Italian, Finnish, Japanese, Korean, and Portugese.

The Lure of Global Branding, **Harvard Business Review**, 1999, with David A. Aaker.

Building Brands without Mass Media Advertising: Lessons from Europe, **Harvard Business Review**, 1997, with David A. Aaker.

IMOS: An International Market Opportunity Screening System, **Journal of International Marketing**, 1994, with Antonie Stam and V. Kumar.

After the Wall: Marketing Guidelines for Eastern Europe, **Sloan Management Review**, 1991, with John A. Quelch; reprinted in: Después del Muro: Pautas de Comercialización para Europa del Este, **Alta Dirección**, 1992 and European Marketing: Readings and Cases, Chris Halliburton and Reinhard Hünerberg, Addison-Wesley, 1993.

El Valor del País de Origin (The Value of Country of Origin Information), **Actualidad de Economía**, 1991.

Methodology

New Answers for Old Questions: Conjoint Analysis Takes the Guess Work out of Marketing Decisions, **Dirección Farmaceutica**, 1994, with Paul Green.

Mathematical Programming Procedures for the Classification Problem in Discriminant Analysis: A Review, **Multivariate Behavioral Research**, 1990, with Antonie Stam.

A Robust Mixed-Integer Approach to Establish Classification Rules for the Discriminant Problem, **European Journal of Operational Research**, 1989, with Antonie Stam.

Solving the Classification Problem in Discriminant Analysis Via Linear and Nonlinear Programming Methods, **Decision Sciences**, 1989, with Antonie Stam.

Four Approaches to the Classification Problem in Discriminant Analysis, **Decision Sciences**, 1988, with Antonie Stam.

4MODE1 AND 4MODE2: Fortran IV Programs for the Four-Mode Components Analysis Problem, **Journal of Marketing Research**, (Computer Abstracts), 1985, with John Lastovicka.

RELCON: A Program for the Estimation of Internal Consistency of Composites with Congeneric Measurement Properties, **Journal of Marketing Research**, (Computer Abstracts), 1985, with Lane Curtis.

Technology, Strategy and Industrial MarketingBuying/Selling

Decision Support System Implementation: A Meta Analysis, **Management Information Systems (MIS) Quarterly**, 1992, with Maryam Alavi.

Sales Resource Allocation with Multiple Conflicting Objectives: An Interactive Decision Support Aid, **Decision Sciences**, 1991, with Antonie Stam and Lorraine Gardiner.

Order (Market) Selection Given Multiple Conflicting Objectives and Goals: An Interactive Marketing-Manufacturing Decision Model, **Decision Sciences**, 1989, with Antonie Stam and Lorraine Gardiner.

Influence of Formalization on the Organizational Commitment and Work Alienation of Salespeople and Industrial Buyers, **Journal of Marketing Research**, 1988, with Ronald Michaels, William Cron, and Alan Dubinsky.

Multicriteria Issues in Marketing: A Sales Resource Allocation Example and Potential Areas of Future Research, **Lecture Notes in Economics and Mathematical Systems Series**, 1988, Springer Verlag, with Lorraine Gardiner and Antonie Stam.

Individual Difference Factors in the Satisfaction and Usage of a Marketing Decision Support System, **Journal of Marketing Research**, 1987, with George Zinkhan and Thomas C. Kinnear.

Role Stress Among Industrial Buyers: An Integrative Model with Implications for Marketing, **Journal of Marketing**, 1987, with Ronald E. Michaels and Ralph L. Day.

Methodology and Consumer Behavior

Measurement Validity of VALS and a Custom Lifestyle Typology with Multiplicative Factoring of Multimethod- Multitrait Matrices, **Journal of Marketing Research**, 1990, with John Lastovicka and John P. Murry.

Improving Personality-Behavior Relationships, **Journal of Consumer Research**, 1988, with John Lastovicka.

A Lifestyle Typology to Model Young Male Drinking and Driving, **Journal of Consumer Research**, 1987, with John Lastovicka, John P. Murry, and Gaurav Bhalla.

Optimal Stimulation Level, Exploratory Behavior Models, **Journal of Consumer Research**, 1984, with John Lastovicka.

B. Books & Book Chapters

“Strategie und Architektur fuer Markenportfolios” in *Handbuch Markenartikel*, to be published in 2004, Manfred Bruhn, Gabler Verlag, Wiesbaden, with Markus Pfeiffer.

Brand Leadership, The Free Press, New York, 2000, with David A. Aaker. Translated in German, Spanish, Italian, Finnish, Japanese, Korean, and Portugese.

“Branding Challenges For Transitional Economy Firms in Local Markets,” in *Marketing Issues in Transitional Economies*, 1999, Rajeev Batra, Kluwer Academic Publishers, Norwell, Massachusetts, with Jordi Garolera and Dana Pillsbury.

“Nestle Buitoni: The House that Mamma Built,” in *Relationship Marketing: Strategy and Implementation*, 1999, Helen Peck, Adrian Payne, Martin Christopher, and Moira Clark, Butterworth-Heinemann, Oxford, with Edward Hickman.

C. Working Papers & Teaching Notes, etc.

Eastman Kodak: Digital & Applied Imaging, Darden Educational Material, 1996.

Energia General (Eg3): Retail Service Stations in Argentina, Darden Educational Material, 1996.

Nike Europe, IESE Case Publication No. M-968, 1995.

Renault SA, IESE Case Publication No. M-966, 1995.

Hugo Boss AG, IESE Case Publication No. M-965, 1995.

IBM Ambra, IESE Case Publication No. M-963, 1995.

ABB: Electrical Motors, Case Study, 1995.

CCNR-Coca-Cola Nestlé Refreshments, Case Study, 1995.

Corporate Brands, IESE Working Paper.

The Andrex Case Story, IESE Case Publication No. M-952, 1994.

The Nestlé Buitoni Case Story: The House that Mamma Built, IESE Case Publication No. M-953, with Edward Hickman, 1994.

Marketing Metamorphosis: From Products to Brands to Consumers, IESE Working Paper No. MN-282, 1994.

Building Global Brand-Consumer Relationships, IESE Working Paper No. MN-294, 1994.

Maintaining Global Brand-Consumer Relationships, IESE Working Paper No. M-293, 1994.

Conjoint Analysis Takes the Guess Work Out of Pharmaceutical Marketing Decisions, IESE Publication No.: MN-284, with Paul Green, 1994.

The Häagen-Dazs Story, IESE Case Publication No. M-940, with Peter Taugbol, 1994.

The Swatch Story, IESE Case Publication No. M-930, 1993.

Anfi del Mar, S.A., IESE Case Publication No. M-888, with Madhur Mehta 1993; Teaching Note No.: MT-8, and Supplementary Material No.: M-924.

RCI: Service Quality and Its Measurement, IESE Case Publication No. M-905 with Brian Hare, 1993; Teaching Note for RCI M-10.

EXHIBIT B

EXHIBIT B: EXPERT WITNESS EXPERIENCE

Deere & Company v. MTD Holdings Inc., formerly known as MTD Products Inc., expert consultation for Plaintiffs, deposition.

Verizon v. Nextel, deposition

Exide v. EnerSys, deposition